

1 **SENATE FLOOR VERSION**

2 February 16, 2017

3 SENATE BILL NO. 73

By: Shaw of the Senate

4 and

5 West (Josh) of the House

6
7
8 An Act relating to boating under the influence of
9 alcohol; amending 47 O.S. 2011, Section 6-205, as
10 amended by Section 1, Chapter 279, O.S.L. 2013 (47
11 O.S. Supp. 2016, Section 6-205), which relates to
12 mandatory revocation of driving privilege; providing
13 for the revocation of driving privilege under certain
14 circumstances; amending 63 O.S. 2011, Section 4210.8,
15 which relates to operation of a vessel under the
16 influence of alcohol; modifying certain penalty to
17 include driver license revocation; providing an
18 exception; adding definition; and providing an
19 effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-205, as
22 amended by Section 1, Chapter 279, O.S.L. 2013 (47 O.S. Supp. 2016,
23 Section 6-205), is amended to read as follows:

24 Section 6-205. A. The Department of Public Safety shall
immediately revoke the driving privilege of any person, whether
adult or juvenile, upon receiving a record of conviction in any
municipal, state or federal court within the United States of any of
the following offenses, when such conviction has become final:

- 1 1. Manslaughter or negligent homicide resulting from the
2 operation of a motor vehicle;
- 3 2. Driving or being in actual physical control of a motor
4 vehicle while under the influence of alcohol, any other intoxicating
5 substance, or the combined influence of alcohol and any other
6 intoxicating substance, any violation of paragraph 1, 2, 3 ~~or~~, 4 or
7 5 of subsection A of Section 11-902 of this title or any violation
8 of Section 11-906.4 of this title. However, the Department shall
9 not additionally revoke the driving privileges of the person
10 pursuant to this subsection if the driving privilege of the person
11 has been revoked because of a test result or test refusal pursuant
12 to Section 753 or 754 of this title arising from the same
13 circumstances which resulted in the conviction unless the revocation
14 because of a test result or test refusal is set aside;
- 15 3. Any felony during the commission of which a motor vehicle is
16 used;
- 17 4. Failure to stop and render aid as required under the laws of
18 this state in the event of a motor vehicle accident resulting in the
19 death or personal injury of another;
- 20 5. Perjury or the making of a false affidavit or statement
21 under oath to the Department under the Uniform Vehicle Code or under
22 any other law relating to the ownership or operation of motor
23 vehicles;
- 24

1 6. A misdemeanor or felony conviction for unlawfully
2 possessing, distributing, dispensing, manufacturing, trafficking,
3 cultivating, selling, transferring, attempting or conspiring to
4 possess, distribute, dispense, manufacture, traffic, sell, or
5 transfer of a controlled dangerous substance as defined in the
6 Uniform Controlled Dangerous Substances Act while using a motor
7 vehicle;

8 7. Failure to pay for gasoline pumped into a vehicle pursuant
9 to Section 1740 of Title 21 of the Oklahoma Statutes;

10 8. A misdemeanor conviction for a violation of Section 1465 of
11 Title 21 of the Oklahoma Statutes;

12 9. A misdemeanor conviction for a violation of Section 609 of
13 Title 37 of the Oklahoma Statutes;

14 10. Failure to obey a traffic control device as provided in
15 Section 11-202 of this title or a stop sign when such failure
16 results in great bodily injury to any other person; ~~or~~

17 11. Failure to stop or to remain stopped for school bus loading
18 or unloading of children pursuant to Section 11-705 or 11-705.1 of
19 this title; or

20 12. Operating or being in actual physical control of a vessel
21 while under the influence of alcohol, any other intoxicating
22 substance or the combined influence of alcohol and any other
23 intoxicating substance as provided in Section 4210.8 or Title 63 of
24 the Oklahoma Statutes.

1 B. The first license revocation under any provision of this
2 section, except for paragraph 2, 6, 7 ~~or~~, 11 or 12 of subsection A
3 of this section, shall be for a period of one (1) year. Such period
4 shall not be modified.

5 C. A license revocation under any provision of this section,
6 except for paragraph 2, 6, ~~or~~ 7 or 12 of subsection A of this
7 section, shall be for a period of three (3) years if a prior
8 revocation under this section, except under paragraph 2 of
9 subsection A of this section, commenced within the preceding five-
10 year period as shown by the records of the Department. Such period
11 shall not be modified.

12 D. The period of license revocation under paragraph 2 or 6 of
13 subsection A of this section shall be governed by the provisions of
14 Section 6-205.1 of this title.

15 E. The first license revocation under paragraph 7 of subsection
16 A of this section shall be for a period of six (6) months. A second
17 or subsequent license revocation under paragraph 7 of subsection A
18 of this section shall be for a period of one (1) year. Such periods
19 shall not be modified.

20 F. The first license revocation under paragraph 11 of
21 subsection A of this section shall be for a period of one (1) year.
22 Such period may be modified. Any appeal of the revocation of
23 driving privilege under paragraph 11 of subsection A of this section
24 shall be governed by Section 6-211 of this title, provided any

1 modification under this subsection shall apply to Class D motor
2 vehicles only.

3 G. The first license revocation under paragraph 12 of
4 subsection A of this section shall be for a period of thirty (30)
5 days. A second license revocation under paragraph 12 of subsection
6 A of this section shall be for a period of sixty (60) days. A third
7 or subsequent license revocation under paragraph 12 of subsection A
8 of this section shall be for a period of ninety (90) days. Such
9 periods shall not be modified.

10 H. As used in this section, "great bodily injury" means bodily
11 injury which creates a substantial risk of death or which causes
12 serious, permanent disfigurement or protracted loss or impairment of
13 the function of any bodily member or organ.

14 SECTION 2. AMENDATORY 63 O.S. 2011, Section 4210.8, is
15 amended to read as follows:

16 Section 4210.8. A. It shall be unlawful for any person to
17 operate or be in actual physical control of a vessel upon the waters
18 of this state, except privately owned waters, who:

19 1. Has a blood or breath alcohol concentration of eight-
20 hundredths (0.08) or more at the time of a test of the person's
21 blood or breath;

22 2. Is under the influence of any other intoxicating substance
23 to a degree which renders such person incapable of safely operating
24 a vessel upon the waters of this state; or

1 3. Is under the influence of alcohol and any other intoxicating
2 substance to a degree which renders such person incapable of safely
3 operating a vessel upon the waters of this state.

4 As used in this section, "other intoxicating substance" means
5 any controlled dangerous substance as defined in the Uniform
6 Controlled Dangerous Substances Act or any other substance, other
7 than alcohol, which is capable of being ingested, inhaled, injected
8 or absorbed into the human body and is capable of adversely
9 affecting the central nervous system, vision, hearing or other
10 sensory or motor functions.

11 B. 1. Any person operating a vessel upon the waters of this
12 state, except privately owned waters, shall be deemed to have given
13 consent to a test or tests of such person's blood, breath, saliva or
14 urine for the purpose of determining the presence and concentration
15 of alcohol or any other intoxicating substance. Such tests shall be
16 performed within two (2) hours of an arrest and in the same manner
17 as provided for in Section 752 of Title 47 of the Oklahoma Statutes.

18 2. Evidence that the person has refused to submit to a test or
19 tests as required by this section shall be admissible upon the trial
20 of any criminal action or proceeding arising out of acts alleged to
21 have been committed in violation of the provisions of this section.

22 3. Any person refusing to submit to such test or tests shall be
23 in violation of this section and subject to the fines provided for
24 herein.

1 C. 1. Any person convicted of a violation of this section
2 shall be guilty of a misdemeanor and fined in an amount not to
3 exceed One Thousand Dollars (\$1,000.00). Any second or subsequent
4 conviction shall be punishable by a fine in an amount of not less
5 than One Thousand Dollars (\$1,000.00), nor more than Two Thousand
6 Five Hundred Dollars (\$2,500.00).

7 2. A person arrested by a law enforcement officer for a
8 violation of this section may be allowed to post a cash bail in an
9 amount set by the arresting law enforcement officer not to exceed
10 the maximum fine provided by this section, or deposit a valid
11 license to operate a motor vehicle in exchange for an official
12 receipt issued by the arresting officer as provided for in Section
13 1111 et seq. of Title 22 of the Oklahoma Statutes.

14 D. In addition to any penalty imposed pursuant to the
15 provisions of this section, the person shall be subject to the
16 mandatory revocation of driving privileges pursuant to subsection G
17 of Section 6-205 of Title 47 of the Oklahoma Statutes, which
18 revocation periods shall not be modified.

19 E. The consumption of alcohol or the possession of an open
20 container of alcohol aboard a vessel does not in and of itself
21 constitute probable cause that the person committed the offense of
22 boating while under the influence of alcohol.

23 F. For purposes of this section, "vessel" means any device
24 operated upon water that is propelled by machinery, whether or not

1 the machinery is the principal source of propulsion, and includes
2 personal watercraft as such term is defined in Section 4201 of this
3 title.

4 SECTION 3. This act shall become effective November 1, 2017.

5 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
6 February 16, 2017 - DO PASS
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24